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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Shana Robertson, on behalf of the
Isagenix Worldwide, Inc. Employee
Stock Ownership Plan and on behalf of
a class of all others similarly situated,

Plaintiff,

v.

Argent Trust Company, Jim Coover,
Kathy Coover, Jim Pierce, and Tammy
Pierce,

Defendants.

No. CV-21-1711-PHX-DWL

**ANSWER AND DEFENSES
TO THE COMPLAINT BY
DEFENDANT ARGENT TRUST
COMPANY**

1 Defendant Argent Trust Company (“Argent”), by and through its counsel of
2 record, provides the following Answer and Defenses to Plaintiff’s Complaint (hereinafter
3 “Complaint”).

4 **GENERAL DENIAL**

5 Except as otherwise expressly stated herein, Argent denies each and every
6 allegation in the Complaint, including, without limitation, any allegations contained in
7 the Complaint’s headings or subheadings and denies any liability to Plaintiff or the
8 Isagenix Worldwide, Inc. Employee Stock Ownership Plan. Pursuant to Rule 8(b) of the
9 Federal Rules of Civil Procedure, averments in the Complaint to which no responsive
10 pleading is required shall be deemed denied. Argent expressly reserves the right to seek
11 to amend and/or supplement its Answer and Defenses as may be necessary or appropriate.

12 **RESPONSES TO SPECIFIC ALLEGATIONS**

13 Incorporating the foregoing, Argent states as follows to the specific allegations in
14 the Complaint. The following numbered paragraphs correspond to the numbered
15 paragraphs of the Complaint.

16 **BACKGROUND**

17
18 1. This action is against Argent Trust Company (“Argent”), the trustee for the
19 Isagenix Worldwide, Inc. Employee Stock Ownership Plan (“the ESOP” or “the Plan”),
20 Jim and Kathy Coover, and Jim and Tammy Pierce pursuant to the Employee Retirement
21 Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. § 1001 *et seq.*, by
22 Plaintiff on behalf of a class of participants in and beneficiaries of the Plan to restore
23 losses to the Plan, obtain other equitable and remedial relief on behalf of the Plan, and to
24 remedy violations of ERISA arising out of a June 14, 2018 transaction whereby the Plan
25 acquired shares of Isagenix Worldwide, Inc. (“Isagenix” or “the Company”).

26 **RESPONSE:** Argent admits that Plaintiff has filed an action against Argent, the
27 trustee for the Isagenix Worldwide, Inc. Employee Stock Ownership Plan (the
28 “ESOP” or the “Plan”), Jim and Kathy Coover, and Jim and Tammy Pierce

1 pursuant to the Employee Retirement Income Security Act of 1974, as amended
2 (“ERISA”), 29 U.S.C. § 1001 *et seq.* Argent further admits that Plaintiff purports
3 to bring the action on behalf of a class of participants in, and beneficiaries of, the
4 Plan to restore alleged losses to the Plan, obtain other unidentified equitable and
5 remedial relief on behalf of the Plan, and to remedy the alleged violations of
6 ERISA arising out of a June 14, 2018 transaction whereby the Plan acquired shares
7 of Isagenix Worldwide, Inc. (“Isagenix” or the “Company”). Argent denies that
8 Plaintiff or the Plan has any viable claims under ERISA and denies that either
9 Plaintiff or the Plan is entitled to any relief whatsoever. Argent denies that the
10 action is properly brought in this Court as all claims asserted are subject to
11 mandatory, individual arbitration. Argent denies any remaining allegations
12 contained in paragraph 1 of the Complaint.

13 2. Plaintiff is a former employee of Isagenix and participant in the ESOP, as
14 defined by ERISA § 3(7), 29 U.S.C. § 1002(7), who vested in shares of Isagenix allocated
15 to her account in the Plan.

16 **RESPONSE:** Argent lacks information sufficient as to form a belief as to the
17 allegations contained in paragraph 2 of the Complaint and therefore denies the
18 same.

19 3. Argent represented the Plan and its participants as Trustee in the June 14,
20 2018 ESOP Transaction. It had sole and exclusive authority to negotiate the terms of the
21 ESOP Transaction on the Plan’s behalf.

22 **RESPONSE:** Argent admits that the Argent Engagement Letter speaks for itself
23 and denies any allegations inconsistent with the terms of the Argent Engagement
24 Letter. Argent denies the remaining allegations contained in paragraph 3 of the
25 Complaint. Argent responds further that the allegations contained in the second
26 sentence of paragraph 3 of the Complaint assert legal conclusions to which no
27 response is required and are therefore denied.
28

1 4. At all relevant times, Isagenix was a privately held company and a party in
2 interest to the Plan. Isagenix adopted the Plan effective January 1, 2018. On June 14,
3 2018, Argent, in its capacity as Trustee of the Plan, purchased 30,000 shares of Isagenix's
4 preferred stock for \$382,500,000 (the "ESOP Transaction"), representing a 30%
5 ownership interest in Isagenix, from Defendants Jim Coover, Kathy Coover, Jim Pierce
6 and Tammy Pierce (the "Selling Shareholder Defendants").

7 **RESPONSE:** Argent admits that Isagenix is a privately held company and that
8 Isagenix adopted the Plan effective January 1, 2018. Argent further admits that
9 the Plan acquired 30,000 shares of Isagenix preferred stock on June 14, 2018 for
10 \$382,500,000. Isagenix's alleged status as a party in interest is a legal conclusion
11 to which no response is required. Argent denies the remaining allegations
12 contained in paragraph 4 of the Complaint.

13 5. The ESOP Transaction allowed the Selling Shareholder Defendants to cash
14 out a portion of their Isagenix stock at a high price at a time when Isagenix's business
15 was deteriorating, and it placed excessive debt on the Company. Argent failed to fulfill
16 its ERISA duties, as Trustee and fiduciary, to the Plan and its participants, including
17 Plaintiff.

18 **RESPONSE:** Argent denies the allegations contained in paragraph 5 of the
19 Complaint.

20 6. As alleged below, the Plan has been injured and its participants have been
21 deprived of hard-earned retirement benefits resulting from Defendants' violations of
22 ERISA.

23 **RESPONSE:** Argent denies the allegations contained in paragraph 6 of the
24 Complaint.

25 7. Through this action, Plaintiff seeks to enforce her rights under ERISA and
26 the Plan, to recover the losses incurred by the Plan and/or the improper profits realized
27 by Defendants resulting from their breaches of fiduciary duty and prohibited transactions,
28 and equitable relief, including rescission of the ESOP Transaction and removal of

1 fiduciaries who have failed to protect the Plan. Plaintiff requests that these prohibited
2 transactions be declared void, Defendants be required to restore any losses to the Plan
3 arising from its ERISA violations, Defendants be ordered to disgorge any profits and any
4 monies recovered for the Plan be allocated to the accounts of the Class members. As
5 alleged below, the Plan has been injured and its participants have been deprived of hard-
6 earned retirement benefits resulting from Defendants' violations of ERISA.

7 **RESPONSE:** Argent admits that Plaintiff purports to assert ERISA claims
8 against Argent and the other named defendants in this action and requests relief
9 under ERISA. Argent denies that it engaged in any violations of ERISA and
10 denies the remaining allegations contained in paragraph 7 of the Complaint,
11 including that Plaintiff or the Plan is entitled to any relief under ERISA.

12 **JURISDICTION & VENUE**

13 8. This Court has subject matter jurisdiction over this action pursuant to 28
14 U.S.C. § 1331 because this action arises under the laws of the United States and pursuant
15 to 29 U.S.C. § 1132(e)(1), which provides for federal jurisdiction of actions brought
16 under Title I of ERISA.

17 **RESPONSE:** The allegations contained in paragraph 8 of the Complaint assert
18 legal conclusions to which no response is required and are therefore denied.
19 Argent also denies that the action is properly brought in this Court as all claims
20 asserted are subject to mandatory, individual arbitration.

21 9. This Court has personal jurisdiction over Defendants because certain
22 Defendants reside or may be found in this District, breaches took place in this District, a
23 substantial part of the events or omissions giving rise to Plaintiff's claims occurred within
24 this District, Defendants transact business in and have significant contacts with this
25 District, and because ERISA provides for nationwide service of process pursuant to
26 ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2).

27 **RESPONSE:** The allegations contained in paragraph 9 of the Complaint assert
28 legal conclusions to which no response is required and are therefore denied.

1 Argent also denies that the action is properly brought in this Court as all claims
2 asserted are subject to mandatory, individual arbitration.

3 10. Venue is proper in this District pursuant to ERISA § 502(e)(2), 29 U.S.C.
4 § 1132(e)(2), because the Plan is administered in this District, Defendants reside or may
5 be found in this District, and/or breaches and violations giving rise to Plaintiff's claims
6 took place in this District. Venue is also proper under 28 U.S.C. § 1391(b) and (c)
7 because a substantial part of the events or omissions giving rise to the claims occurred in
8 this District.

9 **RESPONSE:** Argent admits that the Plan is administered in this District. The
10 remaining allegations regarding venue assert legal conclusions to which no
11 response is required and are therefore denied. Argent denies that the action is
12 properly brought in this Court as all claims asserted are subject to mandatory,
13 individual arbitration. Argent denies the remaining allegations contained in
14 paragraph 10 of the Complaint, including that Argent engaged in any violations of
15 ERISA.

16 **PARTIES**

17 11. Plaintiff Shana Robertson is and has been a Plan participant, as defined in
18 ERISA § 3(7), 29 U.S.C. § 1002(7), since the adoption of the Plan effective on January
19 1, 2018, because she still has an individual account in the Plan and because she has a
20 colorable claim for additional benefits as a result of Defendants' breaches and violations.
21 Plaintiff Robertson resides in Chandler, Arizona. Plaintiff worked as a Customer Service
22 Representative, Policy Advisor and Operations Specialist over the course of her
23 employment by Isagenix from May 2012 until January 2021. She was partially vested
24 by the Plan's terms in shares of Isagenix in her Plan account.

25 **RESPONSE:** Argent lacks information sufficient as to form a belief as to the
26 allegations contained in paragraph 11 of the Complaint regarding Plaintiff's
27 participant status in the Plan, employment status, vesting, and residence, and
28 Argent therefore denies the same. Argent responds further that the allegation

1 contained in the first sentence of paragraph 11 as to Plaintiff's alleged "colorable
2 claim for additional benefits" asserts a legal conclusion to which no response is
3 required and is therefore denied. Argent denies any remaining allegations
4 contained in paragraph 11 of the Complaint, and specifically denies that Argent
5 engaged in any violations of ERISA.

6 12. Defendant Argent operates as an investment management firm and offers
7 financial planning, trusts, and real estate management services to families and
8 organizations. Argent is a Tennessee corporation with its principal place of business at
9 1100 Abernathy Road, 500 Northpark, Suite 550, Atlanta, Georgia 30328. Argent is a
10 division of Argent Financial Group, an independent wealth management firm. Argent
11 Financial Group is headquartered at 500 E. Reynolds Dr., Ruston, Louisiana 71270.

12 **RESPONSE:** Argent admits that it operates as a state-chartered trust company
13 and offers trust and other fiduciary-related services to families and organizations.
14 Argent further admits that it is a Tennessee corporation with its principal place of
15 business at 3102 West End Avenue, Suite 775, Nashville, Tennessee 37203.
16 Argent further admits that it is a subsidiary of Argent Financial Group, Inc., a
17 holding company. Argent further admits that Argent Financial Group, Inc. is
18 headquartered at 500 E. Reynolds Drive, Ruston, Louisiana 71270. Argent denies
19 the remaining allegations in paragraph 12 of the Complaint.

20 13. Argent was the Trustee of the Plan at the time of the ESOP Transaction.
21 Argent was a "fiduciary" under ERISA § 3(21), 29 U.S.C. § 1002(21), at all times that it
22 was the Trustee because it had exclusive authority to manage and control the assets of
23 the Plan and had sole and exclusive discretion to authorize and negotiate the ESOP
24 Transaction on the Plan's behalf. Argent was a party in interest under ERISA § 3(14),
25 29 U.S.C. § 1002(14), at all times that it was a fiduciary of the Plan and a provider of
26 services to the Plan.

27 **RESPONSE:** Argent admits the first sentence of paragraph 13 of the Complaint.
28 The remaining allegations are legal conclusions to which no response is required

1 and are therefore denied. Argent denies all remaining allegations in paragraph 13
2 of the Complaint.

3 14. The Notes to Financial Statements of the Plan's 2019 Form 5500 reports
4 that Argent was the Plan's custodian and holds the Plan's assets, which consist of
5 preferred stock in Isagenix.

6 **RESPONSE:** Argent admits that the Plan's 2019 Form 5500, including the Notes
7 to Financial Statements, speaks for itself and denies all allegations inconsistent
8 with this document. Argent denies all remaining allegations in paragraph 14 of
9 the Complaint.

10 15. Argent's power and authority does not include the power and authority to
11 interpret and construe the terms of the written Plan document.

12 **RESPONSE:** The allegations contained in paragraph 15 of the Complaint are
13 legal conclusions to which no response is required and are therefore denied.

14 16. Defendant Jim Coover was a selling shareholder in the 2018 ESOP
15 Transaction. At the time of the 2018 ESOP Transaction, Jim Coover was the
16 President/CEO of Isagenix, a Director of Isagenix, and a 10% or more shareholder of
17 Isagenix. By virtue of his position as President/CEO and membership on the Board of
18 Directors, Jim Coover was a "fiduciary" under ERISA § 3(21), 29 U.S.C. § 1002(21), at
19 all relevant times with a duty to oversee the Plan and monitor Argent. Jim Coover was a
20 party in interest under ERISA § 3(14), 29 U.S.C. § 1002(14), at all relevant times as an
21 officer, director, fiduciary, relative of a fiduciary and 10% or more shareholder (directly
22 or indirectly) of Isagenix. Defendant Jim Coover resides in Scottsdale, Arizona.

23 **RESPONSE:** In response to the second sentence of paragraph 16, Argent admits
24 that Jim Coover was a director of Isagenix at the time of the ESOP Transaction,
25 but Argent lacks information sufficient as to form a belief as to the remaining
26 allegations contained in the second sentence of paragraph 16 and therefore denies
27 the same. Argent lacks information sufficient as to form a belief as to the fifth
28 sentence of paragraph 16 and therefore denies the same. The remaining

1 allegations in paragraph 16 are legal conclusions to which no response is required
2 and are therefore denied. Argent denies any remaining allegations in paragraph
3 16 of the Complaint.

4 17. Defendant Kathy Coover was a selling shareholder in the 2018 ESOP
5 Transaction. At the time of the 2018 ESOP Transaction, Kathy Coover was the Executive
6 Vice President of Isagenix, a Director of Isagenix, and a 10% or more shareholder of
7 Isagenix. By virtue of her position as Executive Vice President and membership on the
8 Board of Directors, Kathy Coover was a “fiduciary” under ERISA § 3(21), 29 U.S.C. §
9 1002(21), at all relevant times with a duty to oversee the Plan and monitor Argent. Kathy
10 Coover was a party in interest under ERISA § 3(14), 29 U.S.C. § 1002(14), at all relevant
11 times as an officer, director, fiduciary, relative of a fiduciary and 10% or more
12 shareholder (directly or indirectly) of Isagenix. Defendant Kathy Coover resides in
13 Scottsdale, Arizona.

14 **RESPONSE:** In response to the second sentence of paragraph 17, Argent admits
15 that Kathy Coover was a director of Isagenix at the time of the ESOP Transaction,
16 but Argent lacks information sufficient as to form a belief as to the remaining
17 allegations contained in the second sentence of paragraph 17 and therefore denies
18 the same. Argent lacks information sufficient as to form a belief as to the
19 allegations contained in the fifth sentence of paragraph 17 and therefore denies the
20 same. The remaining allegations in paragraph 17 are legal conclusions to which
21 no response is required and are therefore denied. Argent denies any remaining
22 allegations in paragraph 17 of the Complaint.

23 18. Defendant Jim Pierce was a selling shareholder in the 2018 ESOP
24 Transaction. At the time of the 2018 ESOP Transaction, Jim Pierce was a Director of
25 Isagenix, and a 10% or more shareholder of Isagenix. By virtue of his position as a
26 Director of Isagenix, Jim Pierce was a “fiduciary” under ERISA § 3(21), 29 U.S.C. §
27 1002(21), at all relevant times with a duty to oversee the Plan and monitor Argent. Jim
28 Pierce was a party in interest under ERISA § 3(14), 29 U.S.C. § 1002(14), at all relevant

1 times as a director, fiduciary and 10% or more shareholder (directly or indirectly) of
2 Isagenix. Defendant Jim Pierce resides in Miramar Beach, Florida.

3 **RESPONSE:** In response to the second sentence of paragraph 18, Argent admits
4 that Jim Coover was a director of Isagenix at the time of the ESOP Transaction,
5 but Argent lacks information sufficient as to form a belief as to the remaining
6 allegations contained in the second sentence of paragraph 18 and therefore denies
7 the same. Argent lacks information sufficient as to form a belief as to the
8 allegations contained in the fifth sentence of paragraph 18 and therefore denies the
9 same. The remaining allegations in paragraph 18 are legal conclusions to which
10 no response is required and are therefore denied. Argent denies any remaining
11 allegations in paragraph 18 of the Complaint.

12 19. Defendant Tammy Pierce was a selling shareholder in the 2018 ESOP
13 Transaction. At the time of the 2018 ESOP Transaction, Kathy Pierce was a 10% or more
14 shareholder of Isagenix. Tammy Pierce was a party in interest under ERISA § 3(14), 29
15 U.S.C. § 1002(14), at all relevant times as a relative of a fiduciary and 10% or more
16 shareholder of Isagenix (directly or indirectly). Defendant Tammy Pierce resides in
17 Miramar Beach, Florida.

18 **RESPONSE:** Argent lacks information sufficient as to form a belief as to the
19 allegations contained in the second and fourth sentences of paragraph 19 and
20 therefore denies the same. The allegations in the third sentence of paragraph 19
21 are legal conclusions to which no response is required and are therefore denied.
22 Argent denies the remaining allegations in paragraph 19 of the Complaint.

23 20. Defendants Jim Coover, Kathy Coover, Jim Pierce and Tammy Pierce are
24 referred to herein as the “Selling Shareholder Defendants.” Defendants Jim Coover,
25 Kathy Coover and Jim Pierce are referred to herein as the “Director Defendants.”

26 **RESPONSE:** Argent admits that Plaintiff purports to define Defendants Jim
27 Coover, Kathy Coover, Jim Pierce and Tammy Pierce as the “Selling Shareholder
28 Defendants” and Jim Coover, Kathy Coover and Jim Pierce as the “Director

Defendants.” Argent denies those labels are accurate and denies the remaining allegations contained in paragraph 20 of the Complaint.

FACTUAL ALLEGATIONS

21. Isagenix is a multi-level marketing (MLM) company that sells dietary supplements and personal care products. The company, based in Gilbert, Arizona, was founded in 2002 by John Anderson, Jim Coover and Kathy Coover. Collectively, before and after the ESOP Transaction, the Coovers owned and continue to own the majority of shares of Isagenix stock.

RESPONSE: Argent admits that Isagenix is a health and wellness company based in Gilbert, Arizona that develops and distributes a broad range of nutritional products focused on weight wellness, energy, performance and healthy aging. Argent denies all remaining allegations in paragraph 21 of the Complaint.

22. The Coovers bought out John Anderson in 2005. At some time prior to the 2018 ESOP Transaction, Jim and Tammy Pierce became minority shareholders of Isagenix. At the time of the ESOP Transaction, Jim Coover was CEO and a Director of Isagenix, Kathy Coover was Executive Vice President and a Director of Isagenix, and Jim Pierce was a Director of Isagenix.

RESPONSE: Argent admits that Jim Coover, Kathy Coover, and Jim Pierce were directors of Isagenix at the time of the ESOP Transaction. Argent lacks information sufficient as to form a belief as to the remaining allegations contained in paragraph 22 of the Complaint and therefore denies the same.

23. Isagenix was at all times a closely held private company. Isagenix stock is not traded on an established securities market.

RESPONSE: Argent admits that at the time of the 2018 ESOP Transaction and thereafter, Isagenix was a closely held private company and that Isagenix stock was not traded on an established securities market. Argent lacks information sufficient as to form a belief as to the remaining allegations contained in paragraph 23 of the Complaint and therefore denies the same.

24. Isagenix adopted the Plan effective January 1, 2018.

RESPONSE: Argent admits the allegations contained in paragraph 24 of the Complaint.

25. The Plan is a pension plan within the meaning of ERISA § 3(2), 29 U.S.C. § 1002(2), and is subject to ERISA pursuant to ERISA § 4(a)(1), 29 U.S.C. § 1003(a)(1).

RESPONSE: The allegations contained in paragraph 25 of the Complaint are legal conclusions to which no response is required and are therefore denied.

26. The Plan is a leveraged employee stock ownership plan, or “Leveraged ESOP.” The Plan was designed to invest primarily in the employer securities of Isagenix.

RESPONSE: Argent admits the allegations contained in paragraph 26 of the Complaint.

27. The Plan’s principal asset at all times since the ESOP Transaction has been Isagenix stock.

RESPONSE: Argent admits the allegations contained in paragraph 27 of the Complaint.

28. The Plan is an individual account plan, or defined contribution plan, under which a separate individual account was established for each participant. Shares of Isagenix stock are allocated to each participant’s individual account.

RESPONSE: The terms of the Plan speak for themselves. Argent denies any allegations inconsistent with the terms of the Plan and denies all remaining allegations contained in paragraph 28 of the Complaint.

29. Isagenix is and was from the inception of the Plan the sponsor of the Plan within the meaning of ERISA § 3(16)(B), 29 U.S.C. § 1002(16)(B).

RESPONSE: Argent admits that the Company is the Plan sponsor. The remaining allegations contained in paragraph 29 of the Complaint are legal conclusions to which no response is required and are therefore denied.

30. U.S. employees of Isagenix generally participate in the Plan.

1 **RESPONSE:** Argent responds that terms for eligibility in the Plan are set forth
2 in the Plan document, which speaks for itself, and Argent denies any allegations
3 that are inconsistent with the Plan document. Argent denies the remaining
4 allegations contained in paragraph 30 of the Complaint.

5 31. The Plan's Form 5500 Annual Return/Report of Employee Benefit Plan
6 identifies Isagenix as a party in interest to the Plan at the Schedule H, Line 4(i) Schedule
7 of Assets (Held At End of Year), and at Note 10 to the Financial Statements they identify
8 the Plan's investment in Isagenix's preferred stock and indebtedness with a subsidiary of
9 Isagenix as party in interest transactions.

10 **RESPONSE:** Argent admits that the Plan's Form 5500, including its schedules,
11 speaks for itself and denies any allegations inconsistent with the terms of the
12 Plan's Form 5500. The remaining allegations contained in paragraph 31 of the
13 Complaint are denied.

14 32. Isagenix is and was at the time of the ESOP Transaction a party in interest
15 to the Plan under ERISA § 3(14), 29 U.S.C. § 1002(14).

16 **RESPONSE:** The allegations contained in paragraph 32 of the Complaint are
17 legal conclusions to which no response is required and are therefore denied.

18 33. Jim and Kathy Coover are and were at the time of the ESOP Transaction
19 each a party in interest to the Plan under ERISA § 3(14), 29 U.S.C. § 1002(14), as
20 directors of Isagenix; and/or as 10 percent or more shareholders of Isagenix, directly or
21 indirectly; and/or as officers of Isagenix; and/or as employees of Isagenix; and/or as
22 relatives of a party in interest.

23 **RESPONSE:** The allegations contained in paragraph 33 of the Complaint are
24 legal conclusions to which no response is required and are therefore denied.

25 34. Jim and Tammy Pierce are and were at the time of the ESOP Transaction
26 each a party in interest to the Plan under ERISA § 3(14), 29 U.S.C. § 1002(14), as
27 directors of Isagenix; and/or as 10 percent or more shareholders of Isagenix, directly or
28 indirectly; and/or as relatives of a party in interest.

1 **RESPONSE:** The allegations contained in paragraph 34 of the Complaint are
2 legal conclusions to which no response is required and are therefore denied.

3 35. The Director Defendants appointed Argent as Trustee of the Plan and had
4 a duty to monitor Argent. As Trustee, Argent had sole and exclusive authority to negotiate
5 and approve the ESOP Transaction on behalf of the Plan, including the price the Plan
6 paid for Isagenix stock.

7 **RESPONSE:** Argent admits that the Argent Engagement Letter speaks for itself
8 and denies any allegations inconsistent with the terms of the Argent Engagement
9 Letter. Argent denies the remaining allegations contained in paragraph 35 of the
10 Complaint.

11 36. As Trustee for the Plan, it was Argent's exclusive duty to ensure that any
12 transactions between the Plan and the Coovers and/or the Pierces, and between the Plan
13 and Isagenix, including acquisitions of Isagenix stock by the Plan and loans to the Plan,
14 were fair and reasonable and to ensure that the Plan paid no more than fair market value.

15 **RESPONSE:** Argent admits that the Argent Engagement Letter speaks for itself
16 and denies any allegations inconsistent with the terms of the Argent Engagement
17 Letter. Argent denies the remaining allegations contained in paragraph 36 of the
18 Complaint.

19 37. In the ESOP Transaction, the Plan purchased 30,000 shares of Isagenix
20 preferred stock for \$382,500,000 (i.e., a price of \$12,750 per share) on June 14, 2018,
21 and, simultaneously, Isagenix redeemed or purchased Company stock from Jim and
22 Kathy Coover (or a trust or trusts associated with the Coovers) and Jim and Tammy Pierce
23 (or a trust or trusts associated with the Pierces) for a total of \$382,500,000 and
24 recapitalized.

25 **RESPONSE:** Argent admits that the June 14, 2018 Stock Purchase Agreement
26 speaks for itself and denies any allegations inconsistent with the terms of the Stock
27 Purchase Agreement. Argent denies the remaining allegations contained in
28 paragraph 37 of the Complaint.

1 38. As a result of the ESOP Transaction, Isagenix became 30% employee
2 owned. Jim and Kathy Coover (or a trust or trusts associated with the Coovers)
3 collectively own the majority of Isagenix shares, and Jim and Tammy Pierce (or a trust
4 or trusts associated with the Pierces) remain minority shareholders of Isagenix.

5 **RESPONSE:** Argent admits that, as a result of the closing of the Stock Purchase
6 Agreement, the ESOP Trust acquired 30,000 shares of Isagenix preferred stock.
7 The Stock Purchase Agreement sets forth the names of the selling shareholders
8 and the names of shareholders of common stock following the June 14, 2018
9 transaction and Argent denies any allegations that are inconsistent with these
10 sections of the Stock Purchase Agreement. Argent denies the remaining
11 allegations contained in paragraph 38 of the Complaint.

12 39. The ESOP Transaction implied a value of at least \$1,275,000,000 for 100%
13 of the equity of Isagenix.

14 **RESPONSE:** Argent denies the allegations contained in paragraph 39 of the
15 Complaint.

16 40. The Plan's purchase of the Isagenix shares was financed by a loan that the
17 Plan entered into with Isagenix International, LLC, a subsidiary of Isagenix, for
18 \$382,500,000 that provides that the Plan repay the loan over 39 years in equal annual
19 payments at an interest rate of 3.05% ("Inside ESOP Loan").

20 **RESPONSE:** Argent admits that the terms of the ESOP-Company Loan And
21 Pledge Agreement speak for themselves and denies any allegations inconsistent
22 with the terms of the ESOP-Company Loan And Pledge Agreement. Argent
23 denies all remaining allegations contained in paragraph 40 of the Complaint.

24 41. Plaintiff further alleges that the following factual allegations in this
25 paragraph will likely have evidentiary support after a reasonable opportunity for further
26 investigation or discovery. Isagenix and/or Isagenix International, LLC entered into term
27 loans to finance the ESOP Transaction with CION Investment Corporation, a business
28 development company; Crescent Capital, an investor in alternative credit; Main Street

1 Capital Corporation, an investment firm that provides credit to middle market companies;
2 and the Selling Shareholder Defendants (“Outside ESOP Loan”).

3 **RESPONSE:** Argent admits that the terms of the Credit Agreement speak for
4 themselves and denies any allegations inconsistent with the terms of the Credit
5 Agreement. Argent denies all remaining allegations contained in paragraph 41 of
6 the Complaint.

7 42. The ESOP was announced to Isagenix employees at a special assembly on
8 July 17, 2018. Plaintiff had no knowledge of the ESOP or the ESOP Transaction until
9 the July 17, 2018 announcement.

10 **RESPONSE:** Argent lacks information sufficient as to form a belief as to the
11 allegations contained in paragraph 42 of the Complaint and therefore denies the
12 same.

13 43. Plaintiff was allocated shares of Isagenix stock in her individual account in
14 the Plan in 2018, 2019 and 2020. She was 20% vested in her Isagenix shares when her
15 employment terminated.

16 **RESPONSE:** Argent lacks information sufficient as to form a belief as to the
17 allegations contained in paragraph 43 of the Complaint and therefore denies the
18 same.

19 44. Plaintiff further alleges that the following factual allegations in this
20 paragraph will likely have evidentiary support after a reasonable opportunity for further
21 investigation or discovery. Isagenix provided financial projections to Argent for the
22 valuation for the ESOP Transaction. The financial projections were unreasonably
23 optimistic.

24 **RESPONSE:** Argent admits that the Company provided financial information to
25 Argent in connection with Argent’s due diligence and evaluation of the potential
26 ESOP transaction. Argent denies the remaining allegations contained in
27 paragraph 44 of the Complaint.
28

1 45. Plaintiff further alleges that the following factual allegations in this
2 paragraph will likely have evidentiary support after a reasonable opportunity for further
3 investigation or discovery. The ESOP Transaction was structured as a purchase of
4 preferred stock rather than common stock in order to inflate the purchase price paid by
5 the ESOP. The present value of expected future preferred dividend payments was
6 included in the purchase price and the ESOP thereby increased the amount borrowed
7 under both the Inside ESOP Loan and the Outside ESOP Loan. Using preferred stock to
8 increase the price paid by the ESOP in the ESOP Transaction and the ESOP's and the
9 Company's debt obligations following the ESOP Transaction was not fair to the ESOP
10 from a financial point of view.

11 **RESPONSE:** Argent admits that the Stock Purchase Agreement speaks for itself
12 and denies any allegations inconsistent with the terms of the Stock Purchase
13 Agreement. Argent denies the remaining allegations contained in paragraph 45 of
14 the Complaint.

15 46. Plaintiff further alleges that the following factual allegations in this
16 paragraph will likely have evidentiary support after a reasonable opportunity for further
17 investigation or discovery. The last twelve months (LTM) financials for Isagenix as of
18 the date of the ESOP Transaction reflected a decline in revenues and EBITDA.

19 **RESPONSE:** Argent states that the "last twelve months financials," which is not
20 a term that is defined in the Complaint, for Isagenix as of the June 14, 2018 speak
21 for themselves and Argent denies any allegations that are inconsistent with that
22 financial information. Argent denies the remaining allegations contained in
23 paragraph 46 of the Complaint.

24 47. Plaintiff further alleges that the following factual allegations in this
25 paragraph will likely have evidentiary support after a reasonable opportunity for further
26 investigation or discovery. At the time of the ESOP Transaction, Isagenix faced material
27 business risks, including but not limited to: its narrow product base, declining consumer
28 interest in its products, competition from other companies offering similar products at

1 lower prices, the loss of top distributors, and discontent among Isagenix distributors about
2 its binary compensation structure.

3 **RESPONSE:** Argent denies the allegations contained in paragraph 47 of the
4 Complaint.

5 48. Plaintiff further alleges that the following factual allegations in this
6 paragraph will likely have evidentiary support after a reasonable opportunity for further
7 investigation or discovery. Isagenix instituted a large layoff soon after the ESOP
8 Transaction.

9 **RESPONSE:** Argent lacks information sufficient as to form a belief as to the
10 allegations contained in paragraph 48 of the Complaint and therefore denies the
11 same.

12 49. Plaintiff further alleges that the following factual allegations in this
13 paragraph will likely have evidentiary support after a reasonable opportunity for further
14 investigation or discovery. The ESOP Transaction placed excessive debt on Isagenix. By
15 2020, the Coovers and the Pierces were forced to inject \$35 million into Isagenix to avoid
16 default on the Inside ESOP Loan and the Outside ESOP Loan. In 2020, Isagenix used
17 this money and other funds to retire over \$60 million of the principal amount of the
18 Outside ESOP Loan at approximately sixty-five (65) cents on the dollar. The 2020
19 transaction implied a high risk of Isagenix defaulting on the Outside ESOP Loan.

20 **RESPONSE:** Argent admits that the August 25, 2020 Amendment No. 1 to the
21 Credit Agreement speaks for itself and denies any allegations that are inconsistent
22 with Amendment No. 1 to the Credit Agreement. Argent denies the remaining
23 allegations contained in paragraph 49 of the Complaint.

24 50. Plaintiff further alleges that the following factual allegations in this
25 paragraph will likely have evidentiary support after a reasonable opportunity for further
26 investigation or discovery. The Plan paid more than fair market value for Isagenix stock
27 due to the flawed valuation of the company.
28

1 **RESPONSE:** Argent denies the allegations contained in paragraph 50 of the
2 Complaint.

3 51. Argent is responsible for an annual valuation of the ESOP's Isagenix stock.
4 On December 30, 2018, the Plan's Isagenix stock was valued at \$6,051.15 per share. On
5 December 29, 2019, the Plan's Isagenix stock was revalued at \$3,648.71 per share. The
6 December 29, 2019 valuation represents a decline of over 70% from the purchase price
7 paid by the ESOP. Plaintiff does not aver that any of the valuations for which Argent
8 was responsible was accurate.

9 **RESPONSE:** The first sentence in paragraph 51 asserts a legal conclusion to
10 which no response is required and is therefore denied. In response to the second
11 and third sentences in paragraph 51, Argent states that annual valuation reports of
12 the value of Isagenix stock as of December 31, 2018 and December 31, 2019 speak
13 for themselves, and Argent denies any allegations that are inconsistent with the
14 annual valuation reports. Argent denies the remaining allegations contained in
15 paragraph 51 of the Complaint.

16 52. Plaintiff further alleges that the following factual allegations in this
17 paragraph will likely have evidentiary support after a reasonable opportunity for further
18 investigation or discovery. Argent did not perform due diligence in the course of the
19 ESOP Transaction similar to the due diligence that is performed by third-party buyers in
20 large corporate transactions. Argent's due diligence in the ESOP Transaction was less
21 extensive and thorough than the due diligence performed by third-party buyers in
22 corporate transactions of similar size and complexity. The Plan overpaid for Isagenix
23 stock in the ESOP Transaction due to Argent's reliance on unrealistic growth projections,
24 unreliable or out-of-date financials, improper discount rates, inappropriate guideline
25 public companies for comparison, and/or its failure to test assumptions, failure to
26 question or challenge underlying assumptions, failure to apply a discount for lack of
27 control, failure to adequately consider Isagenix's material business risks, and/or other
28 factors that rendered the valuation of Isagenix stock in the ESOP Transaction faulty.

1 **RESPONSE:** Argent denies the allegations contained in paragraph 52 of the
2 Complaint.

3 53. A prudent fiduciary who had conducted a prudent investigation would have
4 concluded that the ESOP was paying more than fair market value for the Isagenix shares
5 and/or the debt incurred in connection with the ESOP Transaction was excessive.

6 **RESPONSE:** Argent denies the allegations contained in paragraph 53 of the
7 Complaint.

8 54. Incentives to Argent to act in favor of the Selling Shareholder Defendants
9 in the ESOP Transaction included the possibility of business from sellers of companies
10 who understood that Argent applied a lesser degree of due diligence in ESOP purchases
11 of businesses than is typical for non-ESOP-buyers' purchases of businesses, engagement
12 as the Plan's ongoing trustee after the ESOP Transaction and the fees paid for that
13 engagement.

14 **RESPONSE:** Argent denies the allegations contained in paragraph 54 of the
15 Complaint.

16 55. Argent is liable to the Plan for the difference between the price paid by the
17 Plan and the actual value of Isagenix shares at the time of the ESOP Transaction.

18 **RESPONSE:** Argent denies the allegations contained in paragraph 55 of the
19 Complaint.

20 56. Argent has received consideration for its own personal account from
21 Isagenix for its services in the ESOP Transaction in the form of fees.

22 **RESPONSE:** Argent admits that it received fees for the services it provided as
23 the Plan's trustee. Argent denies the remaining allegations contained in paragraph
24 56 of the Complaint.

25 57. Plaintiff further alleges that the following factual allegations in this
26 paragraph will likely have evidentiary support after a reasonable opportunity for further
27 investigation or discovery. The Selling Shareholder Defendants had access to the
28 financial information upon which the valuation for the ESOP Transaction was based. The

1 Selling Shareholder Defendants had knowledge of the material risks Isagenix faced at the
2 time of the ESOP Transaction. The Selling Shareholder Defendants participated in the
3 negotiations leading up to the ESOP Transaction. The Director Defendants participated
4 in the due diligence process leading up to the ESOP Transaction.

5 **RESPONSE:** Argent admits that the Company's directors participated in some
6 of the due diligence conducted in connection with the exploration of a potential
7 ESOP formation. Argent further admits that some of the selling shareholders had
8 access to certain financial information relating to the Company prior to the June
9 14, 2018 transaction. The remaining allegations contained in paragraph 57 of the
10 Complaint are denied.

11 **CLAIMS FOR RELIEF**

12 **COUNT I**

13 **Causing and Engaging in Prohibited Transactions Forbidden by** 14 **ERISA § 406(a)–(b), 29 U.S.C. § 1106(a)–(b), Against Argent and Selling** 15 **Shareholder Defendants**

16 58. Plaintiff incorporates the preceding paragraphs as though set forth herein.

17 **RESPONSE:** Argent restates and incorporates by reference its responses to
18 paragraphs 1-57 of the Complaint.

19 59. ERISA § 406(a)(1)(A), 29 U.S.C. § 1106(a)(1)(A), prohibits a plan
20 fiduciary, here Argent, from causing a plan, here the Plan, to engage in a sale or exchange
21 directly or indirectly of any property, here Isagenix stock, with a party in interest, here
22 the Selling Shareholder Defendants, as took place in the ESOP Transaction.

23 **RESPONSE:** The allegations contained in paragraph 59 of the Complaint assert
24 legal conclusions to which no response is required and are therefore denied.

25 60. ERISA § 406(a)(1)(B), 29 U.S.C. § 1106(a)(1)(B), prohibits Argent from
26 causing the Plan to borrow money from a party in interest, here Isagenix and the Selling
27 Shareholder Defendants, as took place in the ESOP Transaction.

1 **RESPONSE:** The allegations contained in paragraph 60 of the Complaint assert
2 legal conclusions to which no response is required and are therefore denied.

3 61. ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D), prohibits Argent from
4 causing the Plan to engage in a transaction that constitutes a direct or indirect transfer to,
5 or use by or for the benefit of, a party in interest, here the Selling Shareholder Defendants,
6 of any assets of the Plan, as took place in and after the ESOP Transaction with the transfer
7 of Plan assets as payment for Isagenix stock and in continuing payments on the loan.

8 **RESPONSE:** The allegations contained in paragraph 61 of the Complaint assert
9 legal conclusions to which no response is required and are therefore denied.

10 62. The stock and loan transactions between the Plan and the parties in interest
11 were authorized by Argent in its capacity as Trustee for the Plan.

12 **RESPONSE:** Argent admits that it executed the Stock Purchase Agreement and
13 select loan agreements on behalf of the Plan. Argent denies the remaining
14 allegations contained in paragraph 62 of the Complaint.

15 63. Argent caused the Plan to engage in prohibited transactions in violation of
16 ERISA § 406(a), 29 U.S.C. § 1106(a), in the ESOP Transaction.

17 **RESPONSE:** Argent denies the allegations contained in paragraph 63 of the
18 Complaint.

19 64. ERISA § 406(b), 29 U.S.C. § 1106(b), *inter alia*, mandates that a plan
20 fiduciary shall not “act in any transaction involving the plan on behalf of a party (or
21 represent a party) whose interests are adverse to the interests of the plan or the interests
22 of its participants,” or “receive any consideration for his own personal account from any
23 party dealing with such plan in connection with a transaction involving the assets of the
24 plan.”

25 **RESPONSE:** The allegations contained in paragraph 64 of the Complaint assert
26 legal conclusions to which no response is required and are therefore denied.

27 65. Argent caused the Plan to acquire Isagenix stock from the Selling
28 Shareholder Defendants above fair market value and with the proceeds of loans that were

1 used to pay the Selling Shareholder Defendants. This primarily benefited the Selling
2 Shareholder Defendants to the substantial detriment of the Plan and its participants and
3 beneficiaries, even though Argent was required to act solely in the interests of the Plan's
4 participants and beneficiaries in connection with any such transaction.

5 **RESPONSE:** Argent denies the allegations contained in paragraph 65 of the
6 Complaint.

7 66. Argent received consideration in the form of fees for its own personal
8 account from Isagenix as Trustee for the Plan in the ESOP Transaction, in violation of
9 ERISA § 406(b)(3).

10 **RESPONSE:** Argent admits that it received fees for the services it provided as
11 the Plan's trustee. The allegation contained in paragraph 66 of the Complaint that
12 Argent received consideration asserts legal conclusion to which no response is
13 required and is therefore denied. Argent denies the remaining allegations
14 contained in paragraph 66 of the Complaint.

15 67. Argent caused and engaged in prohibited transactions in violation of
16 ERISA § 406(b) in the ESOP Transaction.

17 **RESPONSE:** Argent denies the allegations contained in paragraph 67 of the
18 Complaint.

19 68. As officers, directors, the spouses of officers and directors, and/or
20 shareholders of Isagenix, the Selling Shareholder Defendants were aware of facts
21 sufficient to establish that the ESOP Transaction constituted a prohibited transaction with
22 parties in interest. The Selling Shareholder Defendants are liable for violations of ERISA
23 § 406(a)(1)(A) and (D), 29 U.S.C. § 1106(a)(1)(A) and (D).

24 **RESPONSE:** Argent denies the allegations contained in paragraph 68 of the
25 Complaint.

26 69. ERISA § 409, 29 U.S.C. § 1109, provides, *inter alia*, that any person who
27 is a fiduciary with respect to a plan and who breaches any of the responsibilities,
28 obligations, or duties imposed on fiduciaries by Title I of ERISA shall be personally

1 liable to make good to the plan any losses to the plan resulting from each such breach,
2 and additionally is subject to such other equitable or remedial relief as the court may
3 deem appropriate.

4 **RESPONSE:** The allegations contained in paragraph 69 of the Complaint assert
5 legal conclusions to which no response is required and are therefore denied.

6 70. ERISA § 502(a), 29 U.S.C. § 1132(a), permits a plan participant to bring a
7 suit for relief under ERISA § 409 and to obtain appropriate equitable relief to enforce the
8 provisions of Title I of ERISA or to enforce the terms of a plan.

9 **RESPONSE:** The allegations contained in paragraph 70 of the Complaint assert
10 legal conclusions to which no response is required and are therefore denied.

11 71. Argent has caused losses to the Plan by the prohibited transactions in an
12 amount to be proved specifically at trial. The Selling Shareholder Defendants are liable
13 for appropriate equitable relief to be proven at trial.

14 **RESPONSE:** Argent denies the allegations contained in paragraph 71 of the
15 Complaint.

16 **COUNT II**

17 **Breaches of Fiduciary Duty Under ERISA § 404(a), 29 U.S.C. § 1104(a), Against** 18 **Argent**

19 72. Plaintiff incorporates the preceding paragraphs as though set forth herein.

20 **RESPONSE:** Argent restates and incorporates by reference its responses to
21 paragraphs 1-71 of the Complaint.

22 73. ERISA § 404(a)(1), 29 U.S.C. § 1104(a)(1), requires, *inter alia*, that a plan
23 fiduciary discharge his or her duties with respect to a plan solely in the interest of the
24 participants and beneficiaries, (A) for the exclusive purpose of providing benefits to
25 participants and the beneficiaries of the plan, (B) with the care, skill, prudence, and
26 diligence under the circumstances then prevailing that a prudent person acting in a like
27 capacity and familiar with such matters would use in the conduct of an enterprise of a
28 like character and with like aims, and (D) in accordance with the documents and

1 instruments governing the plan insofar as such documents and instruments are consistent
2 with ERISA.

3 **RESPONSE:** The allegations contained in paragraph 73 of the Complaint assert
4 legal conclusions to which no response is required and are therefore denied.

5 74. The fiduciary duty of loyalty entails a duty to avoid conflicts of interest and
6 to resolve them promptly when they occur. A fiduciary must always administer a plan
7 with an “eye single” to the interests of the participants and beneficiaries, regardless of
8 the interests of the fiduciaries themselves or the plan sponsor.

9 **RESPONSE:** The allegations contained in paragraph 74 of the Complaint assert
10 legal conclusions to which no response is required and are therefore denied.

11 75. In the context of a transaction involving the assets of the Plan, the duties of
12 loyalty under ERISA § 404(a)(1)(A) and care, skill, prudence and diligence under ERISA
13 § 404(a)(1)(B) require a fiduciary to undertake an appropriate investigation to determine
14 that the plan and its participants receive adequate consideration for the plan’s assets and
15 the participants’ accounts in the plan.

16 **RESPONSE:** The allegations contained in paragraph 75 of the Complaint assert
17 legal conclusions to which no response is required and are therefore denied.

18 76. Pursuant to ERISA § 3(18), adequate consideration for an asset for which
19 there is no generally recognized market means the fair market value of the asset
20 determined in good faith by the trustee or named fiduciary pursuant to the terms of the
21 plan and in accordance with the Department of Labor regulations.

22 **RESPONSE:** The allegations contained in paragraph 76 of the Complaint assert
23 legal conclusions to which no response is required and are therefore denied.

24 77. ERISA § 409, 29 U.S.C. § 1109, provides, *inter alia*, that any person who
25 is a fiduciary with respect to a plan and who breaches any of the responsibilities,
26 obligations, or duties imposed on fiduciaries by Title I of ERISA shall be personally
27 liable to make good to the plan any losses to the plan resulting from each such breach,
28

1 and additionally is subject to such other equitable or remedial relief as the court may
2 deem appropriate. ERISA § 404(a)(1)(A) & (B), 29 U.S.C. § 1104(a)(1)(A) & (B).

3 **RESPONSE:** The allegations contained in paragraph 77 of the Complaint assert
4 legal conclusions to which no response is required and are therefore denied.

5 78. ERISA § 502(a), 29 U.S.C. § 1132(a), permits a plan participant to bring a
6 suit for relief under ERISA § 409 and to obtain appropriate equitable relief to enforce the
7 provisions of Title I of ERISA or to enforce the terms of a plan.

8 **RESPONSE:** The allegations contained in paragraph 78 of the Complaint assert
9 legal conclusions to which no response is required and are therefore denied.

10 79. Argent was required to undertake an appropriate and independent
11 investigation of the fair market value of Isagenix stock in or about June 2018 in order to
12 fulfill its fiduciary duties, and an appropriate investigation would have revealed that the
13 valuation used for the ESOP Transaction did not reflect the fair market value of the
14 Isagenix stock purchased by the Plan.

15 **RESPONSE:** Argent denies the allegations contained in paragraph 79 of the
16 Complaint.

17 80. Argent failed to conduct a thorough investigation into the merits of the
18 investment and further breached its duties in approving the Plan's purchase of Isagenix
19 stock at the price agreed to in the ESOP Transaction.

20 **RESPONSE:** Argent denies the allegations contained in paragraph 80 of the
21 Complaint.

22 81. Additionally, Argent was required to remedy the ESOP's overpayment for
23 Isagenix stock after the date of the ESOP Transaction, including as necessary correcting
24 the prohibited transaction by seeking the overpayment from the Selling Shareholder
25 Defendants.

26 **RESPONSE:** Argent denies the allegations contained in paragraph 81 of the
27 Complaint.

28 82. Argent breached its duties under ERISA § 404(a), 29 U.S.C. § 1104(a).

1 **RESPONSE:** Argent denies the allegations contained in paragraph 82 of the
2 Complaint.

3 83. Argent has caused losses to the Plan by its breaches of fiduciary duty in an
4 amount to be proved specifically at trial.

5 **RESPONSE:** Argent denies the allegations contained in paragraph 83 of the
6 Complaint.

7 **COUNT III**

8 **Breach of Fiduciary Duty Under ERISA §§ 404(a)(1)(A) and (B),**
9 **29 U.S.C. §§ 1104(a)(1)(A) and (B) Against Director Defendants**

10 84. Plaintiff incorporates the preceding paragraphs as though set forth herein.

11 **RESPONSE:** Argent restates and incorporates by reference its responses to
12 paragraphs 1-83 of the Complaint.

13 85. ERISA § 404(a)(1), 29 U.S.C. § 1104(a)(1), requires that a plan fiduciary
14 discharge his or her duties with respect to a plan solely in the interest of the participants
15 and beneficiaries, (A) for the exclusive purpose of providing benefits to participants and
16 the beneficiaries of the plan, (B) with the care, skill, prudence, and diligence under the
17 circumstances then prevailing that a prudent person acting in a like capacity and familiar
18 with such matters would use in the conduct of an enterprise of a like character and with
19 like aims, and (D) in accordance with the documents and instruments governing the plan
20 insofar as such documents and instruments are consistent with ERISA.

21 **RESPONSE:** The allegations contained in paragraph 85 of the Complaint assert
22 legal conclusions to which no response is required and are therefore denied.

23 86. Under ERISA § 404(a)(1)(A) and (B), a fiduciary with the authority to
24 appoint and/or remove other fiduciaries has an obligation to undertake an appropriate
25 investigation that the fiduciary is qualified to serve in the position as fiduciary and at
26 reasonable intervals to ensure that the fiduciary who has been appointed remains qualified
27 to act as fiduciary and is acting in compliance with the terms of the Plan and in accordance
28 with ERISA.

1 **RESPONSE:** The allegations contained in paragraph 86 of the Complaint assert
2 legal conclusions to which no response is required and are therefore denied.

3 87. According to the Plan Document, the Isagenix Board of Directors appoints
4 the Trustee of the ESOP. Pursuant to that authority, the Director Defendants had a duty
5 to monitor the Trustee's conduct and to take appropriate action if the Trustee was not
6 adequately protecting the interests of ESOP participants, including removing the Trustee
7 and correcting any breaches.

8 **RESPONSE:** Argent states that the Plan document speaks for itself and denies
9 any allegations that are inconsistent with the Plan document. The remaining
10 allegations contained in paragraph 87 of the Complaint assert legal conclusions to
11 which no response is required and are therefore denied.

12 88. The Director Defendants knew or in the exercise of reasonable diligence
13 should have known that Argent as Trustee breached its fiduciary duties and engaged in
14 prohibited transactions as set forth in Counts I and II because (a) the Director Defendants
15 were aware of facts sufficient to establish that the ESOP Transaction constituted a
16 prohibited transaction because they were officers and/or directors of Isagenix, parties to
17 the ESOP Transaction, and involved in the negotiation of the ESOP Transaction, and (b)
18 the Directors Defendants knew that Argent caused and closed the ESOP Transaction and
19 took no steps to protect the Plan participants or to otherwise remedy the violations. The
20 Selling Shareholder Defendants were aware of the terms of the ESOP Transaction and
21 that the ESOP Transaction share price did not reflect fair market value for the stock of
22 Isagenix.

23 **RESPONSE:** Argent denies the allegations contained in paragraph 88 of the
24 Complaint.

25 89. Despite knowing of the facts about these breaches by Argent, the Director
26 Defendants did not take any steps to protect the ESOP participants from these breaches
27 and violations, including by stopping or delaying the ESOP Transaction, and removing
28 Argent as Trustee, and/or remedying these breaches.

1 **RESPONSE:** Argent denies the allegations contained in paragraph 89 of the
2 Complaint.

3 90. By failing to properly monitor and/or take appropriate action against the
4 Trustee, the Director Defendants breached their fiduciary duties under ERISA §
5 404(a)(1)(A) & (B), 29 U.S.C. § 1104(a)(1)(A) & (B).

6 **RESPONSE:** Argent denies the allegations contained in paragraph 90 of the
7 Complaint.

8 91. ERISA § 502(a), 29 U.S.C. § 1132(a), permits a plan participant to bring a
9 suit for relief under ERISA § 409 and to obtain appropriate equitable relief to enforce the
10 provisions of Title I of ERISA or to enforce the terms of a plan.

11 **RESPONSE:** The allegations contained in paragraph 91 of the Complaint assert
12 legal conclusions to which no response is required and are therefore denied.

13 **COUNT IV**

14 **Co-Fiduciary Liability Pursuant to ERISA § 405, 29 U.S.C. § 1105**

15 **Against the Director Defendants**

16 92. Plaintiff incorporates the preceding paragraphs as though fully set forth
17 herein.

18 **RESPONSE:** Argent restates and incorporates by reference its responses to
19 paragraphs 1-91 of the Complaint.

20 93. ERISA § 405(a)(1), 29 U.S.C. § 1105(a)(1), provides that a fiduciary “with
21 respect to a plan shall be liable for a breach of fiduciary responsibility of another fiduciary
22 with respect to the same plan . . . if he participates knowingly in, or knowingly undertakes
23 to conceal, an act or omission of such other fiduciary, knowing such an act or omission
24 was a breach.”

25 **RESPONSE:** The allegations contained in paragraph 93 of the Complaint assert
26 legal conclusions to which no response is required and are therefore denied.

27 94. ERISA § 405(a)(2), 29 U.S.C. § 1105(a)(2), further provides liability on a
28 fiduciary “if, by his failure to comply with section 1104(a)(1) of this title in the

1 administration of his specific responsibilities which give rise to his status as a fiduciary,
2 he has enabled such other fiduciary to commit a breach.”

3 **RESPONSE:** The allegations contained in paragraph 94 of the Complaint assert
4 legal conclusions to which no response is required and are therefore denied.

5 95. ERISA § 405(a)(3), 29 U.S.C. § 1105(a)(3), further provides liability on a
6 fiduciary “if he has knowledge of a breach by such other fiduciary, unless he makes
7 reasonable efforts under the circumstances to remedy the breach.”

8 **RESPONSE:** The allegations contained in paragraph 95 of the Complaint assert
9 legal conclusions to which no response is required and are therefore denied.

10 96. The Director Defendants were all members of the Isagenix Board of
11 Directors with authority to appoint and remove the Trustee, and thus each Director
12 Defendant was a fiduciary with respect to the Plan at the time of the ESOP Transaction.

13 **RESPONSE:** Argent admits that Jim Coover, Kathy Coover, and Jim Pierce were
14 directors of Isagenix at the time of the ESOP Transaction. The remaining
15 allegations contained in paragraph 96 of the Complaint assert legal conclusions to
16 which no response is required and are therefore denied.

17 97. Given their involvement in the ESOP Transaction, their positions as
18 directors and/or officers, their status as parties to the ESOP Transaction, their access to
19 company financial information, and their appointment of Argent as the Trustee, the
20 Director Defendants knew or should have known of the fiduciary breaches of Argent in
21 connection with its faulty due diligence and imprudent approval of the stock purchase for
22 more than fair market value, and the Director Defendants knowingly participated in
23 Argent’s fiduciary breaches, and enabled Argent’s fiduciary breach by themselves failing
24 to monitor as required of an appointing fiduciary.

25 **RESPONSE:** Argent denies the allegations contained in paragraph 97 of the
26 Complaint.
27
28

98. As such, under ERISA § 405(a)(1)-(2), 29 U.S.C. § 1105(a)(1)-(2), the Director Defendants are liable as co-fiduciaries for the Plan's losses resulting from Argent's fiduciary breaches.

RESPONSE: Argent denies the allegations contained in paragraph 98 of the Complaint.

99. The Director Defendants failed to make reasonable efforts to remedy Argent's violations of ERISA associated with the ESOP Transaction despite knowing of such violations, such as preventing the Plan's overpayment, reimbursing the Plan, or bringing the matter to the attention of the Secretary of Labor.

RESPONSE: Argent denies the allegations contained in paragraph 99 of the Complaint.

100. Pursuant to ERISA § 405(a)(3), 29 U.S.C. § 1105(a)(3), the Director Defendants are liable as co-fiduciaries for the Plan's losses resulting from Argent's fiduciary breaches.

RESPONSE: Argent denies the allegations contained in paragraph 100 of the Complaint.

COUNT V

Violation of ERISA § 410 & Breach of Fiduciary Under ERISA §§ 404(a)(1)(A) and (B), 29 U.S.C. § 1110 & §§ 1104(a)(1)(A) and (B) Against Director Defendants and Argent

101. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

RESPONSE: Argent restates and incorporates by reference its responses to paragraphs 1-100 of the Complaint.

102. ERISA § 410(a), 29 U.S.C. § 1110(a), provides in relevant part (with exceptions not applicable here) that “any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part [ERISA Part IV] shall be void as against public policy.”

1 As Part IV of ERISA includes ERISA §§ 404, 405, and 406, 29 U.S.C. §§ 1104, 1105
2 and 1106, any provision that attempts to relieve a fiduciary of liability is void pursuant
3 to ERISA § 410(a), unless there is an exception or exemption. No such exception or
4 exemption is applicable here.

5 **RESPONSE:** The first two sentences contained in paragraph 102 of the
6 Complaint assert legal conclusions to which no response is required and are
7 therefore denied. Argent denies the remaining allegations contained in paragraph
8 102 of the Complaint.

9 103. The DOL Regulations promulgated under ERISA § 410, 29 C.F.R. §
10 2509.75-4, renders “void any arrangement for indemnification of a fiduciary of an
11 employee benefit plan by the plan” because it would have “the same result as an
12 exculpatory clause, in that it would, in effect, relieve the fiduciary of responsibility and
13 liability to the plan by abrogating the plan’s right to recovery from the fiduciary for
14 breaches of fiduciary obligations.”

15 **RESPONSE:** The allegations contained in paragraph 103 of the Complaint assert
16 legal conclusions to which no response is required and are therefore denied.

17 104. For an ESOP-owned company, a provision requiring indemnity by the
18 ESOP-owned company is treated as an indemnity provision by the Plan because it
19 effectively requires ESOP participants to pay for the costs of the breaching fiduciaries’
20 liability.

21 **RESPONSE:** The allegations contained in paragraph 104 of the Complaint assert
22 legal conclusions to which no response is required and are therefore denied.

23 105. Section 14.13 of the Plan document provides any member or former
24 member of the Plan Administrator, officers and directors of Isagenix, and any employee
25 to whom the Plan Administrator or Isagenix has delegated responsibilities under the Plan
26 shall be indemnified and saved harmless by Isagenix from any and all liability relating to
27 the administration of the ESOP. Section 14.13 further provides that any indemnification
28 or agreement to hold harmless shall not apply to any claim, damage, expense, liability or

1 loss that is attributable to bad faith, breach of fiduciary duty under ERISA, gross
2 negligence, willful misconduct or a material breach of the terms of the Plan. This carve-
3 out provision does not exclude participation in a prohibited transaction in the list of
4 claims excluded from indemnification. Moreover, Section 14.13 does not specify who
5 will determine whether an indemnified person or entity has acted in bad faith, breached
6 a fiduciary duty under ERISA, committed gross negligence, engaged in willful
7 misconduct or breached a material term of the Plan.

8 **RESPONSE:** Argent states that the Plan document speaks for itself and denies
9 any allegations that are inconsistent with the Plan document. The remaining
10 allegations contained in paragraph 105 of the Complaint assert legal conclusions
11 or legal interpretations of the Plan document to which no response is required and
12 are therefore denied.

13 106. Plaintiff further alleges that the following factual allegations in this
14 paragraph will likely have evidentiary support after a reasonable opportunity for further
15 investigation or discovery. Argent's engagement agreement with Isagenix for trustee
16 services and/or the trust agreement includes an indemnification term under which
17 Isagenix indemnifies Argent for liability, attorneys' fees and expenses.

18 **RESPONSE:** Argent admits that the terms of the Argent Engagement Letter
19 speak for themselves and denies any allegations that are inconsistent with the
20 Argent Engagement Letter. Argent denies any remaining allegations contained in
21 paragraph 106 of the Complaint.

22 107. As these instruments governing the relationship between either the Trustee,
23 the Plan Administrator, the Director Defendants or other fiduciaries and Isagenix or the
24 Plan attempt to relieve the Trustee, the Plan Administrator, Director Defendants or other
25 fiduciaries of his, her or its responsibility or liability to discharge his, her or its fiduciary
26 duties or to have Isagenix (an ESOP-owned company) and thereby the ESOP be
27 responsible for his, her or its liability or breaches, such agreements or other instruments
28 are void as against public policy.

1 **RESPONSE:** The allegations contained in paragraph 107 of the Complaint assert
2 legal conclusions to which no response is required and are therefore denied.

3 108. To the extent that Director Defendants or Argent would agree to or seek to
4 enforce such a provision that is void against public policy under ERISA § 410, Director
5 Defendants and Argent have breached their fiduciary duties under ERISA by failing to
6 discharge their duties with respect to the Plan solely in the interest of the participants and
7 beneficiaries (A) for the exclusive purpose of providing benefits to participants and
8 beneficiaries and (B) with the care, skill, prudence and diligence under the circumstances
9 then prevailing that a prudent person acting in a like capacity and familiar with such
10 matters would use in the conduct of an enterprise of like character and aims, in violation
11 of ERISA § 404(a)(1)(A) and (B), 29 U.S.C. § 1104(a)(1)(A) and (B).

12 **RESPONSE:** Argent denies the allegations contained in paragraph 108 of the
13 Complaint.

14 109. As such these indemnification provisions in these instruments (or any
15 similar agreements) governing the relationship between Argent, Director Defendants and
16 Isagenix should be declared void ab initio and should be reformed to strike or modified
17 accordingly.

18 **RESPONSE:** Argent denies the allegations contained in paragraph 109 of the
19 Complaint.

20 110. As a result, Argent and the Director Defendants should be ordered to
21 disgorge any indemnification payments made by Isagenix and/or the ESOP, plus interest.

22 **RESPONSE:** Argent denies the allegations contained in paragraph 110 of the
23 Complaint.

24 **COUNT VI**

25 **Declaratory Judgment Under 28 U.S.C. §§ 2201-2202 Against All Defendants**

26 111. Plaintiff incorporates the preceding paragraphs as though fully set forth
27 herein.

1 **RESPONSE:** Argent restates and incorporates by reference its responses to
2 paragraphs 1-110 of the Complaint.

3 112. On July 8, 2021, Plaintiff filed a class action complaint alleging breach of
4 fiduciary duty and prohibited transaction claims against Defendant Argent in the
5 Northern District of Georgia, *Robertson v. Argent Trust Co.*, Case No. 21-02746-SDG.

6 **RESPONSE:** Argent admits the allegations contained in paragraph 112 of the
7 Complaint.

8 113. On September 9, 2021, counsel for Argent sent a letter to Plaintiff's counsel
9 asserting that Plaintiff must arbitrate all her claims against Argent and enclosing a copy
10 of the ESOP plan document.

11 **RESPONSE:** Argent admits the allegations contained in paragraph 113 of the
12 Complaint.

13 114. Plaintiff had not been provided with a copy of the ESOP plan document
14 prior to September 9, 2021.

15 **RESPONSE:** Argent lacks information sufficient as to form a belief as to the
16 allegations contained in paragraph 114 of the Complaint and therefore denies the
17 same.

18 115. The provisions in the ESOP plan document relating to mandatory
19 arbitration are unconscionable, prohibit relief that ERISA expressly permits, operate as a
20 prospective waiver of Plaintiff's right to pursue statutory remedies, and prevent effective
21 vindication of statutory rights.

22 **RESPONSE:** Argent admits that the Plan contains an arbitration provision and
23 denies any allegations that are inconsistent with the Plan's arbitration provision.
24 Argent denies the remaining allegations contained in paragraph 115 of the
25 Complaint.

26 116. In addition to provisions relating to mandatory arbitration, the ESOP plan
27 document also contains a venue clause specifying the U.S. District Court for the District
28 of Arizona as the venue for any challenge to the legal enforceability of the Plan's

1 arbitration provisions or any legal action to the extent the Plan's arbitration provisions
2 are invalidated.

3 **RESPONSE:** Argent admits that the Plan contains a venue provision and an
4 arbitration provision and denies any allegations that are inconsistent with the
5 Plan's provisions. Argent denies the remaining allegations contained in paragraph
6 116 of the Complaint.

7 117. On September 17, 2021, Plaintiff entered a Notice of Voluntary Dismissal
8 without prejudice in *Robertson v. Argent Trust Co.*, Case No. 21-02746-SDG.

9 **RESPONSE:** Argent admits the allegations contained in paragraph 117 of the
10 Complaint.

11 118. An actual and justiciable controversy has arisen between Defendants and
12 Plaintiff concerning the arbitrability of Plaintiff's claims. Accordingly, as alleged herein,
13 a real and substantial, and immediate controversy is presented regarding the rights, duties
14 and liabilities of the parties. A judicial declaration that the arbitration provisions in the
15 ESOP plan document are void or unenforceable will resolve part of the present
16 controversy and provide conclusive relief.

17 **RESPONSE:** The first two sentences contained in paragraph 118 of the
18 Complaint assert legal conclusions to which no response is required and are
19 therefore denied. Argent denies the remaining allegations contained in paragraph
20 118 of the Complaint.

21 119. Plaintiff therefore seeks a declaratory judgment pursuant to the Federal
22 Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, declaring that Defendants are barred
23 from enforcing the mandatory arbitration provisions in the ESOP plan document and/or
24 that such provisions are void.

25 **RESPONSE:** Argent admits that Plaintiff is seeking a declaratory judgment but
26 denies that Plaintiff is entitled to the relief requested and that this forum is the
27 proper venue to seek the relief requested. Argent denies any remaining allegations
28 contained in paragraph 119 of the Complaint.

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RESPONSE: Argent admits that Plaintiff is seeking to represent a class under ERISA § 502(a)(2), but denies that Plaintiff may do so in light of the Plan's arbitration provision or that Plaintiff is entitled to the relief requested. Argent denies any remaining allegations contained in paragraph 120 of the Complaint.

RESPONSE: Argent admits that Plaintiff is seeking to represent a class under ERISA § 502(a)(3), but denies that Plaintiff may do so in light of the Plan's arbitration provision or that Plaintiff is entitled to the relief requested. Argent denies any remaining allegations contained in paragraph 121 of the Complaint.

122. Plaintiff brings this action as a class action pursuant to Fed. R. Civ. P. 23(a) and (b), on behalf of the following class:

1 **RESPONSE:** Argent admits that Plaintiff is seeking to represent the defined class
2 under ERISA §§ 502(a)(2) and (a)(3), but denies that Plaintiff may do so in light
3 of the Plan’s arbitration provision. Argent denies any remaining allegations
4 contained in paragraph 122 of the Complaint.

5 123. The Class is so numerous that joinder of all members is impracticable.
6 Although the exact number and identities of Class members are unknown to Plaintiff at
7 this time, the Plan’s most recent Form 5500 filing reports that as of December 29, 2019,
8 there were 553 participants and beneficiaries receiving or entitled to receive future
9 benefits under the Plan.

10 **RESPONSE:** Argent admits that the Plan’s 2019 Form 5500 speaks for itself and
11 denies any allegations that are inconsistent with that document. The first sentence
12 contains a legal conclusion to which no response is requested and is therefore
13 denied. Argent denies any remaining allegations contained in paragraph 123 of
14 the Complaint.

15 124. Questions of law and fact common to the Class as a whole include, but are
16 not limited to, the following:

- 17 i. Whether Argent served as Trustee in the Plan’s acquisition of
18 Isagenix stock;
- 19 ii. Whether Argent was an ERISA fiduciary of the Plan;
- 20 iii. Whether Argent caused the Plan to engage in prohibited transactions
21 under ERISA by permitting the Plan to purchase Isagenix stock and
22 take loans from parties in interest;
- 23 iv. Whether Argent engaged in a good faith valuation of the Isagenix
24 stock in connection with the ESOP Transaction;
- 25 v. Whether Argent caused the Plan to pay more than fair market value
26 for Isagenix stock purchased from Selling Shareholder Defendants
27 in the ESOP Transaction;

- 1 vi. Whether the Selling Shareholder Defendants knowingly
2 participated in a prohibited transaction in the ESOP Transaction;
3 vii. Whether Argent engaged in a prohibited transaction under ERISA
4 by acting on behalf of a party adverse to the Plan and its participants
5 in the ESOP Transaction;
6 viii. Whether Argent engaged in a prohibited transaction under ERISA
7 by receiving consideration for its own account in the ESOP
8 Transaction;
9 ix. Whether Argent breached its fiduciary duty to undertake an
10 appropriate and independent investigation of the fair market value
11 of Isagenix stock in or about June 2018;
12 x. Whether the Director Defendants were ERISA fiduciaries of the
13 Plan;
14 xi. Whether the Director Defendants breached their fiduciary duty to
15 monitor Argent;
16 xii. The amount of losses suffered by the Plan and its participants as a
17 result of Defendants' ERISA violations; and
18 xiii. The appropriate relief for Defendants' violations of ERISA.

19 **RESPONSE:** The allegations contained in paragraph 124 of the Complaint and
20 each of its subparagraphs assert legal conclusions to which no response is required
21 and are therefore denied. To the extent a response is required, Argent denies the
22 allegations contained in paragraph 124 of the Complaint, including any averment
23 that class certification is appropriate in this case.

24 125. Plaintiff's claims are typical of those of the Class. For example, Plaintiff,
25 like other Plan participants in the Class, suffered a diminution in the value of her Plan
26 account because the Plan paid above fair market value and took on excessive loans for
27 Isagenix stock, resulting in her being allocated fewer shares of stock, and she continues
28

1 to suffer such losses in the present because Defendants failed to correct the overpayment
2 by the Plan.

3 **RESPONSE:** Argent states that the first sentence contains a legal conclusion to
4 which no response is requested and is therefore denied. Argent denies the
5 remaining allegations contained in paragraph 125 of the Complaint.

6 126. Plaintiff will fairly and adequately represent and protect the interests of the
7 Class. Plaintiff has retained counsel competent and experienced in complex class actions,
8 ERISA, and employee benefits litigation.

9 **RESPONSE:** Argent denies the allegations contained in paragraph 126 of the
10 Complaint.

11 127. Class certification of Plaintiff's Claims for Relief for the alleged violations
12 of ERISA is appropriate pursuant to Fed. R. Civ. P. 23(b)(1) because the prosecution of
13 separate actions by individual Class members would create a risk of inconsistent or
14 varying adjudications which would establish incompatible standards of conduct for
15 Defendants, and/or because adjudications with respect to individual Class members
16 would as a practical matter be dispositive of the interests of non-party Class members.

17 **RESPONSE:** Argent denies the allegations contained in paragraph 127 of the
18 Complaint.

19 128. Class certification of Plaintiff's Claims for Relief for the alleged violations
20 of ERISA is also appropriate pursuant to Fed. R. Civ. P. 23(b)(2) because Defendants
21 acted or refused to act on grounds generally applicable to the Class, making appropriate
22 declaratory and injunctive relief with respect to Plaintiff and the Class as a whole. This
23 action challenges whether Defendants acted consistently with their fiduciary duties or
24 otherwise violated ERISA as to the ESOP as a whole. The members of the Class are
25 entitled to declaratory and injunctive relief to remedy Defendants' fiduciary violations.
26 As ERISA is based on trust law, any monetary relief consists of equitable monetary relief
27 and is either provided directly by the declaratory or injunctive relief or flows as a
28 necessary consequence of that relief.

1 I. Order that Defendants provide other appropriate equitable relief to
2 the Plan and its participants and beneficiaries, including but not limited to
3 surcharge, providing an accounting for profits, and imposing a constructive trust
4 and/or equitable lien on any funds wrongfully held by Defendants;

5 J. Order the removal of Argent as Trustee and the replacement of
6 Argent by an Independent Fiduciary and enjoin Argent from acting as a fiduciary
7 for any employee benefit plan that covers or includes any Isagenix employees or
8 any members of the Class;

9 K. Order the proceeds of any recovery for the Plan to be allocated to
10 the accounts of the class members to make them whole for any injury that they
11 suffered as a result of the breaches of ERISA in accordance with the Court's
12 declaration;

13 L. Order the allocation to the accounts of the Class members of the
14 additional shares of stock that would have been allocated but for the Plan's
15 overpayment on Isagenix stock and Defendants' violations of ERISA;

16 M. Declare that any indemnification agreement between the
17 Defendants, or any of them, and Isagenix or the ESOP violates ERISA § 410, 29
18 U.S.C. § 1110, and is therefore null and void.

19 N. Order Defendants to reimburse the ESOP or Isagenix for any money
20 advanced by the ESOP or Isagenix, respectively, under any indemnification
21 agreement or other instrument between Defendants and the ESOP or Isagenix;

22 O. Declare that Argent and Director Defendants are not entitled to
23 indemnification or being held harmless under Section 14.13 of the Plan because
24 Argent and/or Director Defendants acted in bad faith, breached a fiduciary duty
25 under ERISA, engaged in willful misconduct, or materially breached the terms of
26 the Plan and therefore must reimburse Isagenix for any advancement of fees or
27 expenses from Isagenix.
28

1 P. Award Plaintiff reasonable attorneys' fees and costs of suit incurred
2 herein pursuant to ERISA § 502(g), 29 U.S.C. § 1132(g), and/or for the benefit
3 obtained for the common fund;

4 Q. Order Defendant Argent to disgorge any fees it received in
5 conjunction with its services as Trustee for the Plan in the ESOP Transaction as
6 well as any earnings and profits thereon;

7 R. Enjoin Defendants from dissipating any of the proceeds they
8 received from the Transaction held in their actual or constructive possession until
9 the Plan participants' rights can be adjudicated;

10 S. Enjoin Defendants from transferring or disposing of any of the
11 proceeds they received from the Transaction to any person or entity, which would
12 prejudice, frustrate, or impair the Plan participants' ability to recover the same;

13 T. Order Defendants to pay prejudgment and post-judgment interest;

14 U. Declare that the provisions in the Plan relating to mandatory
15 arbitration are void and unenforceable because they prevent effective vindication
16 of statutory rights under ERISA;

17 V. Declare that the provisions in the Plan relating to mandatory
18 arbitration are void and unenforceable as unconscionable;

19 W. Declare that Defendants are barred from enforcing the provisions in
20 the Plan relating to mandatory arbitration;

21 X. Certify this action as a class action pursuant to Fed. R. Civ. P. 23,
22 certify the named Plaintiff as class representative and her counsel as class counsel;
23 and

24 Y. Award such other and further relief as the Court deems equitable
25 and just.

26 **RESPONSE:** Argent denies that Plaintiff is entitled to any of the relief requested
27 in the "Prayer for Relief" clause following paragraph 129 of the Complaint or that
28 this is the proper forum for Plaintiff's claims to be heard.

1 All allegations in the Complaint not specifically admitted in this Answer are
2 hereby denied.

3
4 **AFFIRMATIVE AND OTHER DEFENSES**

5 Argent hereby repeats, re-alleges, and incorporates herein by reference its
6 responses in paragraphs 1 through 129 of the Answer and pleads its Affirmative and
7 Other Defenses, without assuming the burden of proof when the law places that burden
8 upon Plaintiff, and without prejudice to Argent's Answer, and reserving the right to
9 amend or add additional affirmative defenses upon further investigation and discovery,
10 as follows:

11 **FIRST DEFENSE**

12 Plaintiff's claims are subject to the Plan's mandatory arbitration provisions and,
13 as such, all claims asserted in this action should be compelled into individual arbitration.

14 **SECOND DEFENSE**

15 The Complaint, in whole or in part, fails to state a claim upon which relief can be
16 granted against Argent.

17 **THIRD DEFENSE**

18 Plaintiff's claims are barred, in whole or in part, by Plaintiff's lack of standing to
19 assert such claims.

20 **FOURTH DEFENSE**

21 Plaintiff's claims are barred, in whole or in part, because the Court lacks subject
22 matter jurisdiction over such claims.

23 **FIFTH DEFENSE**

24 Plaintiff's claims are barred, in whole or in part, because Argent's actions, to the
25 extent any of them are found to be fiduciary actions, complied with the requirements of
26 ERISA as well as industry norms and standards.

1 **SIXTH DEFENSE**

2 Plaintiff's claims are barred, in whole or in part, because Argent did not cause the
3 Plan or the Trust to pay more than adequate consideration or fair market value for the
4 Isagenix preferred stock at issue.

5 **SEVENTH DEFENSE**

6 The claims in the Complaint are barred to the extent they are based upon settlor or
7 corporate actions which are not governed by ERISA.

8 **EIGHTH DEFENSE**

9 The prohibited transaction claims asserted in the Complaint are barred because
10 there were no prohibited transactions and/or the exemptions under ERISA § 408 were
11 met.

12 **NINTH DEFENSE**

13 Plaintiff's claims against Argent are barred to the extent they are based on alleged
14 actions not taken in a fiduciary capacity.

15 **TENTH DEFENSE**

16 Count V of the Complaint is barred, in whole or in part, because no document
17 relevant to the Plan contains an exculpatory provision in violation of ERISA Section 410.

18 **ELEVENTH DEFENSE**

19 Count VI of the Complaint is barred, in whole or in part, because it seeks
20 speculative relief, Plaintiff has not pled the elements for a declaratory judgment, and the
21 voiding of a contract is not among the equitable remedies available under ERISA.

22 **TWELFTH DEFENSE**

23 Plaintiff's claims may be barred, in whole or in part, by ERISA's statute of
24 limitation or other applicable statutes of limitations or repose or by the doctrine of laches.

1 RESPECTFULLY SUBMITTED this 13th day of December, 2021.

2
3 /s/ Gregory B. Collins

4 Gregory B. Collins

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